



General Assembly

January Session, 2007

***Raised Bill No. 1096***

LCO No. 3860

\*03860\_\_\_\_\_HS\_\*

Referred to Committee on Human Services

Introduced by:  
(HS)

***AN ACT CONCERNING THE ESTABLISHMENT OF THE FATALITY  
REVIEW BOARD FOR PERSONS WITH DISABILITIES.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. (NEW) (*Effective from passage*) (a) There is established a  
2       Fatality Review Board for Persons with Disabilities. The fatality review  
3       board shall investigate the circumstances surrounding the untimely  
4       deaths of persons with disabilities, that, in the opinion of the director  
5       of the Office of Protection and Advocacy for Persons with Disabilities  
6       warrant a full and independent investigation. The fatality review  
7       board shall investigate the untimely deaths of clients of the  
8       Department of Mental Retardation in accordance with subsection (b) of  
9       section 17a-210 of the general statutes, as amended by this act. In  
10      addition, the fatality review board may investigate the circumstances  
11      surrounding deaths as described in subsection (b) of section 46a-11c of  
12      the general statutes. In order to facilitate a prompt investigation of the  
13      circumstances surrounding the untimely death of a client under the  
14      care of the Department of Mental Retardation, said director may refer a  
15      particular case to the fatality review board prior to the completion of a  
16      review conducted by the Independent Mortality Review Board

17 pursuant to the provisions of section 17a-210 of the general statutes, as  
18 amended by this act.

19 (b) The Fatality Review Board for Persons with Disabilities shall  
20 consist of the following six members: The director of the Office of  
21 Protection and Advocacy for Persons with Disabilities, the Chief State's  
22 Attorney or his designee and four members appointed by the  
23 Governor, one of whom shall be a law enforcement professional with a  
24 background in forensic investigations, one of whom shall be a mental  
25 retardation professional and two of whom shall be medical  
26 professionals. The Commissioner of Mental Retardation or the  
27 commissioner's designee shall serve as a nonvoting liaison to the  
28 fatality review board. The director of the Office of Protection and  
29 Advocacy for Persons with Disabilities shall serve as chairperson of the  
30 fatality review board and may assign agency staff and hire consultants  
31 with expertise as necessary to assist the board in the completion of its  
32 investigation.

33 (c) In accordance with section 46a-13a of the general statutes, all  
34 relevant state, local or private agencies shall cooperate and assist the  
35 fatality review board in the performance of its statutory duties.

36 (d) On or before February 1, 2008, and annually thereafter, the  
37 fatality review board shall report, in accordance with section 11-4a of  
38 the general statutes, on its investigations to the Governor, and to the  
39 joint standing committees of the General Assembly having cognizance  
40 of matters relating to human services and public health.

41 Sec. 2. Section 17a-210 of the general statutes is repealed and the  
42 following is substituted in lieu thereof (*Effective from passage*):

43 (a) There shall be a Department of Mental Retardation. The  
44 Department of Mental Retardation, with the advice of a Council on  
45 Mental Retardation, shall be responsible for the planning,  
46 development and administration of complete, comprehensive and  
47 integrated state-wide services for persons with mental retardation and

48 persons medically diagnosed as having Prader-Willi syndrome. The  
49 Department of Mental Retardation shall be under the supervision of a  
50 Commissioner of Mental Retardation, who shall be appointed by the  
51 Governor in accordance with the provisions of sections 4-5 to 4-8,  
52 inclusive. The Council on Mental Retardation may advise the  
53 Governor on the appointment. The commissioner shall be a person  
54 who has background, training, education or experience in  
55 administering programs for the care, training, education, treatment  
56 and custody of persons with mental retardation. The commissioner  
57 shall be responsible, with the advice of the council, for: (1) Planning  
58 and developing complete, comprehensive and integrated state-wide  
59 services for persons with mental retardation; (2) the implementation  
60 and where appropriate the funding of such services; and (3) the  
61 coordination of the efforts of the Department of Mental Retardation  
62 with those of other state departments and agencies, municipal  
63 governments and private agencies concerned with and providing  
64 services for persons with mental retardation. The commissioner shall  
65 be responsible for the administration and operation of the state  
66 training school, state mental retardation regions and all state-operated  
67 community-based residential facilities established for the diagnosis,  
68 care and training of persons with mental retardation. The  
69 commissioner shall be responsible for establishing standards,  
70 providing technical assistance and exercising the requisite supervision  
71 of all state-supported residential, day and program support services  
72 for persons with mental retardation and work activity programs  
73 operated pursuant to section 17a-226. [The commissioner shall conduct  
74 or monitor investigations into allegations of abuse and neglect and file  
75 reports as requested by state agencies having statutory responsibility  
76 for the conduct and oversight of such investigations. In the event of the  
77 death of a person with mental retardation for whom the department  
78 has direct or oversight responsibility for medical care, the  
79 commissioner shall ensure that a comprehensive and timely review of  
80 the events, overall care, quality of life issues and medical care  
81 preceding such death is conducted by the department and shall, as

82 requested, provide information and assistance to the Independent  
83 Mortality Review Board established by Executive Order No. 25 of  
84 Governor John G. Rowland. The commissioner shall report to the  
85 board and the board shall review any death: (A) Involving an  
86 allegation of abuse or neglect; (B) for which the Office of Chief Medical  
87 Examiner or local medical examiner has accepted jurisdiction; (C) in  
88 which an autopsy was performed; (D) which was sudden and  
89 unexpected; or (E) in which the commissioner's review raises questions  
90 about the appropriateness of care.] The commissioner shall stimulate  
91 research by public and private agencies, institutions of higher learning  
92 and hospitals, in the interest of the elimination and amelioration of  
93 retardation and care and training of persons with mental retardation.

94 (b) The commissioner shall conduct or monitor investigations into  
95 allegations of abuse and neglect and file reports as requested by state  
96 agencies having statutory responsibility for the conduct and oversight  
97 of such investigations. In the event of the death of a person with  
98 mental retardation for whom the department has direct or oversight  
99 responsibility for medical care, the commissioner shall: (1) Promptly  
100 report such death to the Office of Protection and Advocacy for Persons  
101 with Disabilities, and (2) ensure that a comprehensive and timely  
102 review of the events, overall care, quality of life issues and medical  
103 care preceding such death is conducted by the department and shall,  
104 as requested, provide information and assistance to the Independent  
105 Mortality Review Board established by Executive Order No. 25 of  
106 Governor John G. Rowland and on and after the effective date of this  
107 section, to the Fatality Review Board for Persons with Disabilities,  
108 established pursuant to section 1 of this act. The commissioner shall  
109 report to such fatality review board and such board shall review any  
110 death: (A) Involving an allegation of abuse or neglect; (B) for which the  
111 Office of Chief Medical Examiner or local medical examiner has  
112 accepted jurisdiction; (C) in which an autopsy was performed; (D)  
113 which was sudden and unexpected; or (E) in which the commissioner's  
114 review raises questions about the appropriateness of care.

115        [(b)] (c) The commissioner shall be responsible for the development  
116 of criteria as to the eligibility of any person with mental retardation for  
117 residential care in any public or state-supported private institution  
118 and, after considering the recommendation of a properly designated  
119 diagnostic agency, may assign such person to a public or state-  
120 supported private institution. The commissioner may transfer such  
121 persons from one such institution to another when necessary and  
122 desirable for their welfare, provided such person and such person's  
123 parent, conservator, guardian or other legal representative receive  
124 written notice of their right to object to such transfer at least ten days  
125 prior to the proposed transfer of such person from any such institution  
126 or facility. Such prior notice shall not be required when transfers are  
127 made between residential units within the training school or a state  
128 mental retardation region or when necessary to avoid a serious and  
129 immediate threat to the life or physical or mental health of such person  
130 or others residing in such institution or facility. The notice required by  
131 this subsection shall notify the recipient of his or her right to object to  
132 such transfer, except in the case of an emergency transfer as provided  
133 in this subsection, and shall include the name, address and telephone  
134 number of the Office of Protection and Advocacy for Persons with  
135 Disabilities. In the event of an emergency transfer, the notice required  
136 by this subsection shall notify the recipient of his or her right to  
137 request a hearing in accordance with subsection [(c)] (d) of this section  
138 and shall be given within ten days following the emergency transfer.  
139 In the event of an objection to the proposed transfer, the commissioner  
140 shall conduct a hearing in accordance with subsection [(c)] (d) of this  
141 section and the transfer shall be stayed pending final disposition of the  
142 hearing, provided no such hearing shall be required if the  
143 commissioner withdraws such proposed transfer.

144        [(c)] (d) Any person with mental retardation who is eighteen years  
145 of age or older and who resides at any institution or facility operated  
146 by the Department of Mental Retardation, or the parent, guardian,  
147 conservator or other legal representative of any person with mental  
148 retardation who resides at any such institution or facility, may object to

149 any transfer of such person from one institution or facility to another  
150 for any reason other than a medical reason or an emergency, or may  
151 request such a transfer. In the event of any such objection or request,  
152 the commissioner shall conduct a hearing on such proposed transfer,  
153 provided no such hearing shall be required if the commissioner  
154 withdraws such proposed transfer. In any such transfer hearing, the  
155 proponent of a transfer shall have the burden of showing, by clear and  
156 convincing evidence, that the proposed transfer is in the best interest  
157 of the resident being considered for transfer and that the facility and  
158 programs to which transfer is proposed (1) are safe and effectively  
159 supervised and monitored, and (2) provide a greater opportunity for  
160 personal development than the resident's present setting. Such hearing  
161 shall be conducted in accordance with the provisions of chapter 54.

162 ~~[(d)]~~ (e) Any person, or the parent, guardian, conservator or other  
163 legal representative of such person, may request a hearing for any final  
164 determination by the department that denies such person eligibility for  
165 programs and services of the department. A request for a hearing shall  
166 be made in writing to the commissioner. Such hearing shall be  
167 conducted in accordance with the provisions of chapter 54.

168 ~~[(e)]~~ (f) Any person with mental retardation, or the parent, guardian,  
169 conservator or other legal representative of such person, may request a  
170 hearing to contest the priority assignment made by the department for  
171 persons seeking residential placement, residential services or  
172 residential support. A request for hearing shall be made, in writing, to  
173 the commissioner. Such hearing shall be conducted in accordance with  
174 the provisions of chapter 54.

175 ~~[(f)]~~ (g) Any person with mental retardation or the parent, guardian,  
176 conservator or other legal representative of such person, may object to  
177 (1) a proposed approval by the department of a program for such  
178 person that includes the use of behavior-modifying medications or  
179 aversive procedures, or (2) a proposed determination of the  
180 department that community placement is inappropriate for such

181 person placed under the direction of the commissioner. The  
 182 department shall provide written notice of any such proposed  
 183 approval or determination to the person, or to the parent, guardian,  
 184 conservator or other legal representative of such person, at least ten  
 185 days prior to making such approval or determination. In the event of  
 186 an objection to such proposed approval or determination, the  
 187 commissioner shall conduct a hearing in accordance with the  
 188 provisions of chapter 54, provided no such hearing shall be required if  
 189 the commissioner withdraws such proposed approval or  
 190 determination.

191 Sec. 3. Subsection (l) of section 17a-274 of the general statutes is  
 192 repealed and the following is substituted in lieu thereof (*Effective from*  
 193 *passage*):

194 (l) In the event that any person placed under the provisions of this  
 195 section is recommended for transfer by the Department of Mental  
 196 Retardation, the department shall proceed as required by subsection  
 197 [(c)] (d) of section 17a-210, as amended by this act, and shall in  
 198 addition notify the probate court which made the placement.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	17a-210
Sec. 3	<i>from passage</i>	17a-274(l)

***Statement of Purpose:***

To enact legislation that incorporates elements of Executive Order No. 25, dated February 8, 2002, which included the establishment of the Fatality Review Board.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*